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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,030

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Radmond Vincent Arceta

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/783,030	Applicant(s) ARCETA ET AL.	
	Examiner Frank Vanaman	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 and 25-31 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 35 and 36 is/are allowed.
- 6) ☐ Claim(s) 1-10, 18-23, 32-34, 37 and 38 is/are rejected.
- 7) ☐ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/16/04 - 7/28/05</u> | 6) <input type="checkbox"/> Other: _____ |

Election/Restriction

1. Applicant's election of Invention I (claims 1-10, 18-38) and Species I (as illustrated in figures 1-12) in the reply filed on April 10, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant has commented that applicant "believes certain claims are generic" however applicant has neither provided evidence that the examiner's analysis is incorrect, nor identified claims deemed generic. Applicant has asserted that elected claims 1-10 and 18-38 are readable in the elected species. The examiner disagrees. Claims 25-31 are directed to subject matter associated with an embodiment shown in figures 22-23, which are not associated with species I. The examiner has identified species I as being illustrated in figures 1-12, and applicant has not argued otherwise.

Claims 11-17 and 25-31 are withdrawn from consideration as being directed to non elected inventions or species.

An office action on claims 1-10, 18-24, and 32-38 follows.

Information Disclosure Statement

2. The information disclosure statement filed Aug. 16, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein (as regards to those foreign references for which copies have not been received) has not been considered.

The examiner additionally notes that both of the statements filed on Feb. 17, 2005 and July 28, 2005 employ the citation prefix "D", and as such, citation designators "D1", "D2", and "D3" have been used twice.

Specification

3. The disclosure is objected to because of the following informalities: In paragraph 0001, the concurrently-filed design applications are not adequately

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identified. Applicant's preliminary amendment, filed April 13, 2005, is noted, however the preliminary amendment does not appear to have treated the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Fiordelisi (US 6,435,407). Fiordelisi teaches a cart comprising a work platform (5a1), a holder (7c) for adjustably supporting a bar-code scanner (7a), the holder connected to the platform, the cart including a base (1a) which movably supports the platform, the holder including an adjustable position wherein the scanner is in an inverted condition (solid 7a, figure 4a) so a user can scan items without holding the scanner.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US 6,578,501). Moore teaches a cart having a work platform (30, 41) having side walls (29), and a plurality of compartments (formed by 24, 36) which may be used to contain items, a base (10) which may be movable in plural directions through rolling members (12a, 12b, etc.) which are located outside the side walls, a telescoping height adjustment mechanism (22) which can lock the work surface at a plurality of heights (col. 2, lines 60-63) and includes inner (18) and outer (21) casing members, with a gas piston (20) which may allow vertical motion of the upper work surface when open,

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and which precludes motion when closed, the piston being controllable by an actuator (50), the base having a portion (i.e., forwardly of 18) which is forward of the height adjustment mechanism, and the work platform having a portion (i.e., forwardly of 21) extending forwardly of the height adjustment portion, at least one compartment (formed by 24) extending forwardly so that a user facing a rearward direction can access contents of the compartments. The reference to Moore fails to teach plural compartments extending forwardly of the height adjustment mechanism. It is well known to increase storage space by increasing shelf depth, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to increase the depth of the lower compartment forming element (36) forwardly of the height adjustment mechanism, for the purpose of increasing the storage space allowed by the lower compartment forming shelf.

8. Claims 2, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Murphy et al. (US 6,626,445). The reference to Moore is discussed above and fails to teach the compartments including drawers, configured to accommodate drawers of different sizes, and further including a handle disposed above the compartments, facing a forward direction. Murphy et al. teach a movable cart (10) which includes a plurality of compartments (defined at 28, 38) which may include drawers (e.g., 48) of differing sizes, and a handle (92) facing the same forward direction. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the compartments of the cart taught by Moore with drawers as taught by Murphy et al., and a handle, for the purpose of (a) allowing small objects to be accommodated in the compartments without being lost, and (b) allowing a user to easily grasp and maneuver the cart.

9. Claims 5, 6, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of McConnell (US 5,257,767). The reference to Moore is discussed above and fails to teach the provision of a shelf which moves in a forward and backwards direction including an element which locks the shelf in a position between forward- and backward-most positions, and/or a shelf which moved left and right along an arc facing forwardly including an element which locks the shelf in a

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position between left and right-most positions. McConnell teaches a well known shelf structure including a shelf (24) which is not limited from supporting a laptop, and which may move in a forward and rearward direction (along 14), as well as an arcuate direction (about 42, 44), and wherein one adjustment (between 22 and 20) may be lockable in between end points of motion (70). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart taught by Moore with the movable shelf structure taught by McConnell for the purpose of allowing a highly adjustable support shelf to accommodate an electronic device. As regards the locking in a mid-position of the forward-rearward and left-right mechanisms, in view of McConnell teaching a locking adjustment for one degree of freedom of the shelf mount (the orientation of 20, 22), further it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a lock for the forward-rearward and left-right degrees of freedom of the shelf mount for the purpose of allowing a user to precisely and immovably position the shelf in a specific desired location, or orientation.

10. Claims 7, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Krichever et al. (US 5,151,581). The reference to Moore is discussed above and fails to teach the provision of a mount for a bar code reader, which is adjustable, and which may hold the reader in an inverted configuration. Krichever et al. teach a holder (170, 196, 170, etc) for a bar code reader (172) which may be positioned on a work surface (206) and which is adjustable (note figures 14-19), including an inverted configuration (e.g., figure 19). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the work surface taught by Moore with a bar-code reader having an adjustable mount as taught by Krichever et al. for the purpose of allowing a user of the cart to read coded information from various items.

11. Claims 10 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Santoro et al. (US 6,682,030). The reference to Moore is discussed above and fails to teach the provision of a pair of drawer slides positioned between the inner and outer casing elements. Santoro et al. teach a vertical adjusting arrangement wherein inner (32) and outer (34) casings are supported with respect to

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one another by a pair of drawer slides (50, 52). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a pair of slides as taught by Santoro et al. between the inner and outer telescopic members of the height adjustment device taught by Moore for the purpose of ensuring smooth relative motion between the elements when the height is changed.

As more specifically regards claim 23, the reference to Moore fails to specifically teach that the piston operates by an exhaust of gas therefrom when lowering and an intake of gas thereto when raising, however it is very well known in pneumatic suspensions for objects to operate a gas piston in this manner, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to arrange the piston to intake gas on raising and exhaust as on lowering for the purpose of ensuring easy operation of the height adjustment device for a user.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Chisholm (US 6,860,494). The reference to Moore is discussed above and fails to specifically teach the provision of a refuse container. Chisholm teaches that it is well known to provide a container (not referenced, supported by 134) which may accommodate refuse, on a cart (10). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a refuse container as taught by Chisholm on the cart taught by Moore for the purpose of allowing trash or other discarded items to be carried on the cart.

13. Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Santoro et al. Santoro et al. teach a cart (10) which may accommodate a work surface, and has a base (16, 18) with a height adjustment mechanism including a stationary casing (32) connected to the base, and a telescopic casing (34) adapted to connect to the work platform, with at least two drawer slides (50, 52) including rolling members (bearings, not referenced) connecting between the stationary and telescopic casing, with a driver (68) which may be run by an actuator (motor in 69) and which, when stopped, locks the casings with respect to one another. The reference to Santoro et al. fails to explicitly teach the work surface, however in view of the reference teaching that it is intended for use with such a surface, it would have been obvious to one of

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ordinary skill in the art at the time of the invention to provide a work surface (e.g., on top of 23, 24, 25) for the purpose of constructing a complete cart assembly.

14. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Santoro et al. in view of Moore. The reference to Santoro et al. is discussed above and fails to teach the driver and actuator as comprising a gas piston and actuator. Santoro et al. do teach, however, that a number of different driver/actuation combinations may be used (motor drive, figures 5, 6; hand crank, figures 7, 8; hand slide, figures 9, 10). Moore teaches the use of a height adjustment device including a gas piston (20) with controlling actuator (50). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the height adjustment device taught by Santoro et al. with a pneumatic piston device and actuator as taught by Moore for controlling surface height, for the purpose of providing a mid-cost option for the height adjustment (i.e., less expensive than a motor drive, more expensive than a manual-slide arrangement).

Moore fails to specifically teach that the piston operates by an exhaust of gas therefrom when lowering and an intake of gas thereto when raising, however it is very well known in pneumatic suspensions for objects to operate a gas piston in this manner, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to arrange the piston to intake gas on raising and exhaust as on lowering for the purpose of ensuring easy operation of the height adjustment device for a user.

Allowable Subject Matter

15. Claims 35 and 36 are allowed.

16. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gogulski (US 4,071,740), Hunter et al. (US 5,058,911), Enoki et al. (US 5,734,839), Blaeuer (US 6,484,939) and Hamlin (US 6,722,673) teach structures of pertinence.

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18. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618

Handwritten signature of F. Vanaman, dated 4/24/06.